

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**JOYCE ROSE**

**VS.**

**KIN, INC.**

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§

**CASE NO. \_\_\_\_\_**

**DEFENDANT'S NOTICE OF REMOVAL**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant KIN, INC. ("KIN") files this Notice of Removal of an action pending in the 190<sup>th</sup> District Court of Harris County, Texas, Cause No. 2021-47749, removing the case to the United States District Court for the Southern District of Texas, Houston Division, and would respectfully show the Court as follows:

**Background**

1. Plaintiff Joyce Rose, ("Plaintiff") commenced an action in the 190<sup>th</sup> District Court of Harris County, Texas ("State Court Action"), on August 4, 2021. *See* Exhibit A. Plaintiff's Original Petition incorporates an allegation of a premises liability/negligence claim against KIN arising from an injury sustained by Plaintiff Joyce Rose when she tripped and fell in 2021.

2. KIN filed its Original Answer on August 25, 2021, asserting a general denial and various defenses. *See* Exhibit B.

3. Because KIN is not a resident of Texas, diversity exists and, due to the amount of controversy, this case is removable.

### **Removal is Timely**

4. KIN was served on August 5, 2021. *See* Exhibit C. Pursuant to 28 U.S.C. §§ 1446(b) and 1446(c)(1), this Notice of Removal is timely, as it is filed within 30 days of the service of the Petition on the most recent defendant and is filed within one year of the filing of the lawsuit.

### **Venue is Proper**

5. The Houston Division of the United States District Court for the Southern District of Texas is the appropriate court for filing a Notice of Removal from the 190th District Court of Harris County, Texas, because it is the court for the district and division embracing the place where the State Court Action is pending. *See* 28 U.S.C. § 1441(a).

### **Diversity Jurisdiction**

6. The underlying State Court Action is one over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332. It may be removed to this Court by KIN pursuant to 28 U.S.C. § 1441, because the dispute is between citizens of different states, KIN is not a citizen of the State of Texas, and the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs. *See* Exhibit A; *De Aguilar v. Boeing Co.*, 11 F.3d 55, 58 (5th Cir. 1993) (if it is facially apparent from the state court petition that the amount in controversy exceeds the jurisdictional minimum requirement, then defendant need only point such fact out to successfully bear its burden).

7. Accordingly, this case is removable to the United States District Court for the Southern District of Texas, Houston Division.

**Other Matters**

8. The following documents required by 28 U.S.C. § 1446(a) and Local Rule 81 are attached to this Notice of Removal:

- a. Pleadings asserting causes of action, e.g., Plaintiff's Original Petition (*see* Exhibit A);
- b. All executed process in the case (*see* Exhibit B);
- c. KIN's Answer (*see* Exhibit C);
- d. KIN's Request for Jury Trial (*see* Exhibit D);
- e. An index of matters being filed (*see* Exhibit F);
- f. A list of all counsel of record, including addresses, telephone numbers and parties represented (*see* Exhibit F); and
- g. The docket sheet (*see* Exhibit G).

9. As required by 28 U.S.C. § 1446(d), on this date written notice of the filing of this Notice of Removal has been given to Plaintiff and a copy of this Notice of Removal has been filed with the Clerk of the District Court of Harris County, Texas.

10. No admission of fact, law, or liability is intended by this Notice of Removal, and KIN expressly reserves all defenses, affirmative defenses, and motions.

Respectfully submitted,

By: /s/ Jason Wagner

Jason Wagner  
Attorney-in-Charge  
State Bar No. 00795704  
Federal Bar No. 20325  
jwagner@jwagnerlaw.com  
Two North Main Street  
Kingwood, Texas 77339  
Telephone: (713) 554-8450  
Facsimile: (713) 554-8451

ATTORNEY FOR DEFENDANT

OF COUNSEL:

**WAGNER LAW, PLLC.**

Two North Main Street  
Kingwood, Texas 77339  
Telephone: (713) 554-8450  
Facsimile: (713) 554-8451

ATTORNEY FOR DEFENDANT

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **Defendant's Notice of Removal** was served, pursuant to Federal Rule of Civil Procedure 5, via email, on this the 31<sup>st</sup> day of August 2021, to:

Jeffrey N. Todd  
The Todd Law Group, PLLC  
12929 Gulf Freeway, Suite 301  
Houston, Texas 77034  
jeff@jefftoddlaw.com  
(Attorney for Plaintiff)

/s/ Jason Wagner

Jason Wagner